

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Delete, Delete, Delete

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GN Docket No. 25-133

COMMENTS OF ACA CONNECTS



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TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. DELIVER QUICK DEREGULATORY WINS.....	3
A. Elimination of PE Certification Requirement (WC Docket No. 19-195; 47 CFR § 1.7004(d))	4
B. Reconsideration of Prior Administration’s Declaratory Ruling on CALEA (PS Docket No. 22-329; 47 C.F.R. § 1.20003)	7
III. REVERSE COURSE ON REGULATORY OVERREACH.....	8
A. Overhaul of the Commission’s Digital Discrimination Rules (GN Docket No. 22-69; 47 CFR §§ 16.1-16.7)	8
B. Deletion of All-in-Pricing Rules (MB Docket No. 23-203; 47 CFR § 76.310)	10
C. Streamlining Rules Governing Display of Consumer Broadband Labels (CG Docket No. 22-2; 47 CFR §§ 8.1, 8.2)	11
D. Removing the EAS-Related Set-Top Box Replacement Obligation (PS Docket No. 15-94; 47 CFR § 11.51)	13
E. Adjusting Outage Reporting Requirements (PS Docket Nos. 21-346 and 15-80; ET Docket No. 04-35; 47 CFR § 4.18).....	14
F. Repealing Data Breach Rules (WC Docket No. 22-21; 47 CFR §§ 64.2011(a)-(e), 64.5111(a)-(e))	16
IV. REMOVE UNBALANCED REGULATIONS ON CABLE PROVIDERS.....	17
A. Closed Captioning Certifications (CG Docket No. 05-231; 47 CFR § 79.1(j)(1)(i))	18
B. Reporting Obligations for Advertisement Duration Limits under Children’s Television Act (MB Docket Nos. 18-202, 17-105; 47 CFR § 76.1703).....	18
C. Annual Notice Rules (MM Docket No. 92-263; 47 CFR § 76.1602).....	19
D. Updates to Broadcast Carriage and Other Cable Rules	20
V. CONCLUSION	21

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I. INTRODUCTION

ACA Connects – America’s Communications Association (“ACA Connects”)¹ hereby submits comments in response to the Federal Communications Commission’s (“Commission”) “Delete, Delete, Delete” Public Notice seeking comment on identifying Commission rules that impose unnecessary regulatory burdens.²

As an association representing small and medium-sized communications providers, ACA Connects would like to thank the Commission for undertaking this inquiry. Our Members lack the scale and resources of the nation’s largest broadband providers; many Members have only a few dozen employees, and the majority do not have in-house legal and compliance departments. As a result, they have less ability to

¹ ACA Connects represents approximately 500 smaller private and public broadband, video, and voice providers that pass more than 30 million households across the 50 states and U.S. territories, including seven million homes in rural areas.

² *In Re. Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219 (rel. Mar. 12, 2025) (“*Public Notice*”). These comments are additionally submitted to relevant dockets.

absorb regulatory compliance costs than their larger competitors and are disproportionately harmed by excessive regulatory burdens.

In this inquiry, the Commission asks interested parties to identify Commission rules that impose such burdens. The Commission identifies various factors that are relevant to determining which rules fit the bill, including cost-benefit considerations;³ experience gained from the implementation of the rule;⁴ marketplace and technological changes that make the rule unnecessary;⁵ whether the existing rule poses a barrier to entry;⁶ changes in the broader regulatory context,⁷ and whether changes in the governing legal framework justify removal of the rule.⁸

Below, we identify several rules that are strong candidates for modification or deletion based on these factors. The Commission should kickstart the process by permanently removing its professional engineer certification requirement for the Broadband Data Collection, which has proven both unnecessary and unduly burdensome for smaller fixed broadband providers. The Commission should also grant the pending petition for reconsideration to rescind the previous administration's unlawful expansion of the Commission's authority under the Communications Assistance for Law Enforcement Act.

³ *Id.* at 2-3.

⁴ *Id.* at 3.

⁵ *Id.* at 3.

⁶ *Id.* at 4.

⁷ *Id.* at 4.

⁸ *Id.* at 4-5.

Next, the Commission should reverse course on recently adopted regulations that either exceed the agency's statutory authority or are more extensive than necessary. Most importantly, it should overhaul the previous administration's vastly overbroad "Digital Discrimination" rules, which deter investment and impose crippling costs on smaller broadband providers by placing every business decision under the Commission's microscope. The Commission should also rescind the "All-in-Pricing" obligations that have been imposed on cable and satellite (but not streaming) video providers and streamline its broadband label requirements to minimize compliance burdens for smaller providers. Next, it should make targeted adjustments to its emergency alerting and network outage reporting regimes. The Commission should also delete the expansive data breach rules adopted for telecommunications carriers and interconnected VoIP providers.

Finally, the Commission should take steps to further modernize its media rules governing cable operators. Given rapid and ongoing changes in the pay-TV marketplace, it makes no sense to saddle cable providers with oppressive rules and reporting obligations that do not apply to online streaming alternatives that increasingly dominate the marketplace.

II. DELIVER QUICK DEREGULATORY WINS

To get "Delete, Delete, Delete" off to a running start, we urge the Commission to take immediate action to deliver regulatory relief in key areas. First and foremost, we urge the Commission to adopt the proposal teed up in the Fourth Further Notice of Proposed Rulemaking in WC Docket 19-195 that it "eliminate the requirement in [its] rules that parties submitting verified broadband data in the [Broadband Data Collection

(“BDC”)] provide a certification by a licensed professional engineer if not submitted by a corporate engineering officer.”⁹ The Commission waived this requirement for the first six BDC filings, and with the seventh filing approaching, the time has come to remove the requirement once and for all. In addition, the Commission should grant the pending petition for reconsideration of the Declaratory Ruling in WC Docket 22-329 that adopted an unlawfully expansive reading of the Commission’s authority under the Communications Assistance for Law Enforcement Act (“CALEA”).¹⁰

A. Elimination of PE Certification Requirement (WC Docket No. 19-195; 47 CFR § 1.7004(d))

The Commission should modify 47 CFR § 1.7004(d),¹¹ which requires parties submitting verified broadband data in the BDC to provide a certification by a licensed professional engineer if not submitted by a corporate engineering officer. The Commission has granted a waiver on this issue multiple times,¹² and the Commission

⁹ *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Fourth Report and Order, Declaratory Ruling, Fourth Further Notice of Proposed Rulemaking, FCC 24-72, para. 95 (July 12, 2024) (“Data Collection Fourth FNPRM”).

¹⁰ *Protecting the Nation’s Communications Systems from Cybersecurity Threats*, PS Docket No. 22-329, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 25-9 (2025).

¹¹ See 47 CFR § 1.7004(d).

¹² See *Establishing the Digital Opportunity Data Collection; Competitive Carriers Association Petition for Declaratory Ruling or Limited Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Maps*, WC Docket No. 19-195, Declaratory Ruling and Limited Waiver, 37 FCC Rcd 7836, 7836, paras. 12-13 (WCB/OEA/WTB 2022) (2022 BDC PE Order); *Establishing the Digital Opportunity Data Collection; Competitive Carriers Association and USTelecom – The Broadband Association Petition for Extension of Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data*

recently proposed to “eliminate the requirement in [its] rules that parties submitting verified broadband data in the [BDC] provide a certification by a licensed professional engineer if not submitted by a corporate engineering officer.”¹³ As an early advocate of the waiver and a representative of smaller broadband providers that have relied on it to file credible and accurate data submissions, ACA Connects supports a modification of 47 CFR § 1.7004 to eliminate this requirement.

In issuing the Limited Waivers, Commission staff found that “the lack of certified professional engineers specializing in RF engineering and broadband network design constitutes ‘special circumstances’ that warrant a deviation from the general rule that certified professional engineers must certify the accuracy of providers’ biannual BDC broadband data submissions.”¹⁴ Our Members report that this circumstance persists; there remains an insufficient supply of certified PEs with the requisite and relevant expertise to provide the required certifications. The lack of qualified certified PEs particularly affects smaller providers such as ACA Connects Members, who are less

Collection Maps, WC Docket No. 19-195, Order, DA 23-1123, para. 1 (WCB/OEA/WTB 2023) (jointly, “Limited Waivers”).

¹³ Data Collection Fourth FNPRM, para. 95. The FCC proposed to “[a]llow for the engineering certification to be submitted by (i) a corporate officer possessing a B.S. in engineering degree and who has direct knowledge of and responsibility for the carrier’s network design and construction; (ii) an engineer possessing a bachelor’s or postgraduate degree in electrical engineering, electronic technology, or another similar technical discipline, and at least seven years of relevant experience in broadband network design and/or performance; or (iii) an employee with specialized training relevant to broadband network engineering and design, deployment, and/or performance, and at least 10 years of relevant experience in broadband network engineering, design, and/or performance.” *Id.*, para. 101.

¹⁴ *2022 BDC PE Order*, 37 FCC Rcd at 7843, para. 14.

likely to have a licensed Professional Engineer on staff. As we have further explained, the requirement would not make sense even if licensed PEs were more readily available, as PE licensure is not the best determinant whether an engineer is competent to certify a company's BDC filings.¹⁵

ACA Connects has consistently advocated for the elimination of the requirement to provide a certification by a licensed professional engineer when submitting verified broadband data,¹⁶ explaining that “the Limited Waiver has enabled ACA Connects Members to rely successfully on experienced network engineers within their companies – who often lack PE licensure – to certify their BDC submissions.”¹⁷ ACA Connects explained the Limited Waiver's success by stating, “Engineers with substantial, direct experience overseeing broadband network design and performance are well-positioned to certify the accuracy of broadband deployment data.”¹⁸ Indeed, ACA Connects Members have successfully completed multiple rounds of BDC filings pursuant to the Limited Waivers, demonstrating the effectiveness of this approach.

At a minimum, the Commission should eliminate the requirement for wired broadband providers whose deployed broadband plant is at least 90 percent composed of coaxial cable, fiber-to-the-premises, or hybrid fiber-coaxial (“HFC”), because the “high consistency of speed” provided by these technologies makes PE licensure an especially

¹⁵ See Comments of ACA Connects on Petition of Competitive Carriers Association for Declaratory Ruling or Limited Waiver, WC Docket No. 19-195 at 4-5 (filed June 8, 2022).

¹⁶ See, e.g., Comments of ACA Connects, WC Docket No. 19-195 (filed Sep. 1, 2023).

¹⁷ *Id.* at 3.

¹⁸ *Id.*

inapt requirement for such providers' certifications. It is especially critical that the Commission codify the waiver standard for providers with fewer than 100,000 broadband subscribers, who are most likely to face insuperable challenges in obtaining PEs to perform their certifications on a timely and cost-effective basis.

B. Reconsideration of Prior Administration's Declaratory Ruling on CALEA (PS Docket No. 22-329; 47 C.F.R. § 1.20003)

In the final days of the previous Administration, the Commission adopted – without an opportunity for public comment – a Declaratory Ruling that announced an expansive reading of the Commission's authority and providers' obligations under CALEA.¹⁹ As Chairman Carr correctly identified in his dissenting statement,²⁰ the Declaratory Ruling extends far outside the bounds of CALEA's plain text. Recognizing as much, a group of trade associations timely filed a petition for reconsideration asking the Commission to reconsider and rescind the Declaratory Ruling.²¹ Their petition

¹⁹ See *Protecting the Nation's Communications Systems from Cybersecurity Threats*, PS Docket No. 22-329, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 25-9 (rel. Jan. 16, 2025) ("Declaratory Ruling").

²⁰ Press Release, Carr Statement on the Biden FCC's Partisan, Counterproductive, and Eleventh-Hour Approach to Salt Typhoon, FCC (Jan. 15, 2025) ("But the FCC and the court of appeals have already determined that CALEA's 'switching premises' language is key to the statute's operation. The FCC's unprecedented decision to effectively read that language out of the statute not only undermines the action it takes today, it calls into question every previous FCC action under CALEA too.").

²¹ Petition for Reconsideration of CTIA – The Wireless Association, NCTA – The Internet & Television Association, and USTelecom – The Broadband Association, PS Docket No. 22-329 (filed Feb. 18, 2025); see *also* Reply in Support of Petition for Reconsideration of CTIA – The Wireless Association, NCTA – The Internet & Television Association, and USTelecom – The Broadband Association, PS Docket No. 22-329 (filed Mar. 7, 2025) ("Associations Reply").

received opposition from a single party,²² which, as the trade associations replied, said “little about the multiple deficiencies in the Declaratory Ruling that the Associations identified.”²³ We therefore urge this Commission to quickly rectify its predecessor’s error by granting the petition.

III. REVERSE COURSE ON REGULATORY OVERREACH

In recent years, the Commission has enacted rules that went too far, either by exceeding the bounds of the Commission’s statutory authority or by imposing regulatory requirements that were more burdensome and costly than necessary to achieve the Commission’s valid policy objectives. ACA Connects requests that the Commission conduct proceedings to reset this balance, as explained below.

A. Overhaul of the Commission’s Digital Discrimination Rules (GN Docket No. 22-69; 47 CFR §§ 16.1-16.7)

The Commission’s 2023 decision *Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination* (“Digital Discrimination Order”) was a vast overreach.²⁴ Then Commissioner Carr, in opposing the decision, noted that the Commission took a one-page statute and adopted rules of “breathtaking scope,” which “hands the Administrative State veto power over every decision about the

²² Opposition to Petition for Reconsideration, Electronic Privacy Information Center, PS Docket No. 22-329 (filed Feb. 28, 2024).

²³ Associations Reply at 1.

²⁴ See *Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination*, GN Docket No. 22-69, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-100 (Nov. 20, 2022).

provision of Internet service in the country.”²⁵ ACA Connects agrees. We submitted Member testimony demonstrating that they do not engage in digital discrimination and have limited financial and human resources, which they have dedicated to upgrading and expanding their networks to offer high-performance broadband services and efficiently operating their networks and providing responsive customer service – all with the aim of delivering their subscribers the best possible user experience.²⁶ Yet, our Members now must divert resources to comply with vague, expansive requirements that expose them to the possibility of hefty penalties if the Commission finds a violation.²⁷ The Further Notice of Proposed Rulemaking (“FNPRM”) that accompanied the rules would add even more burdens, including expansive “affirmative obligations.”

As one of the industry associations that sought judicial review of the Commission’s overbroad rules,²⁸ we are optimistic that these rules will not stand the test

²⁵ Dissenting Statement of Commission Brendan Carr, *Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination*, GN Docket No. 22-69, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-100 at 1-2 (Nov. 20, 2022).

²⁶ Comments of ACA Connects on the Notice of Inquiry, GN Docket No. 22-69 at 49-80 (filed May 16, 2022).

²⁷ See Comments of ACA Connects, GN Docket No. 22-69 at 19 (filed Feb. 21, 2023) (“However, a discriminatory effects standard would expose BSPs to enormous burdens and uncertainty in all aspects of their business by subjecting a vast array of operational decisions to scrutiny under an unclear standard.”); see also *Ex Parte* Letter from WISPA – Broadband Without Boundaries on Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, GN Docket No. 22-69 (filed Nov. 8, 2023) (“The definitions [of ‘technically feasible’ and ‘economically feasible’] are riddled with subjective terms that would lead inevitably to expensive complaint processes as broadband providers defend their practices and policies.”); Comments of Tech Freedom, GN Docket No. 22-69 at 47 (filed Feb. 21, 2023).

²⁸ See “Broadband Groups Decry Impact of FCC Digital Discrimination Rules on Rural Providers,” BroadbandBreakfast (Mar. 5, 2024), available at <https://bit.ly/42Ay642>.

of time. Regardless, we urge the Commission to start from scratch and adopt rules that align with the statute and that are far less operationally burdensome, especially for smaller providers. As part of this rewrite, it should abandon the misguided proposals set forth in the FNPRM.

B. Deletion of All-in-Pricing Rules (MB Docket No. 23-203; 47 CFR § 76.310)

A prime example of regulatory overreach is the *All-In Pricing Report and Order*.²⁹ While the Commission contended these rules would help consumers “comparison shop among video programming providers”³⁰ the rules in fact confuse customers more than increase transparency. For one thing, the rules are unnecessary and duplicative: Under the statutory language of the Television Viewer Protection Act of 2019 (“TVPA”),³¹ cable and other multichannel video programming distributors (“MVPDs”) were already required to disclose, at the point of sale, “the total monthly charge” of the individual or bundled service “selected by the consumer.”³² As Chairman Carr’s dissent further noted, “the [TVPA’s] disclosures are limited to the point of sale. The TVPA does not regulate how prices are shown in advertising. In fact, Congress considered and

²⁹ *All-In Pricing for Cable and Satellite Television Service*, MB Docket No. 23-203, Report and Order, FCC 24-29 (2024).

³⁰ *Id.*, para 6.

³¹ Television Viewer Protection Act of 2019, Pub. L. No. 116-94, 133 Stat. 2534 (2019), *codified at* 47 U.S.C. § 562.

³² 47 U.S.C. § 562(a).

ultimately rejected extending the law to advertisements.”³³ Accordingly, elimination of the All-in-Pricing rules would better accord with the clear language of the TVPA.

Further, because the rules do not apply to “over-the-top” streaming alternatives of “virtual MVPDs” (“vMVPDs”), elimination of the rules would also promote parity in the video marketplace by relieving cable operators from a set of burdensome obligations that do not apply to their virtual MVPD competitors.

C. Streamlining Rules Governing Display of Consumer Broadband Labels (CG Docket No. 22-2; 47 CFR §§ 8.1, 8.2)

With 6-12 months of experience under their belts, our Members have had ample time analyze the benefits and drawbacks of the consumer broadband labels they have implemented pursuant to Commission rules adopted in 2022.³⁴ ACA Connects Members, particularly its smallest providers, have expressed frustration with their inability to streamline the consumer broadband label process, with many reporting that maintenance and upkeep of the labels is a substantial monthly expense. Although broadband labels are statutorily mandated,³⁵ the Commission has discretion over the rules governing their creation and display. We urge the Commission to consider rule changes that would preserve the labels’ ability to “help consumers comparison shop for

³³ Dissenting Statement of Commissioner Brendan Carr, *All-In Pricing for Cable and Satellite Television Service*, MB Docket No. 23-203, Report and Order, FCC 24-29 at 1 (2024).

³⁴ See *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-86 (2022).

³⁵ The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504 (2021).

broadband services” but reduce compliance requirements for broadband providers and eliminate customer confusion. Such changes include the following:

- Amend 47 CFR § 8.2 to afford providers the *option* to display an icon or a link to the label – rather than requiring providers to display the actual label – at the point-of-sale webpage.
- Eliminate the requirements to itemize on the label all discretionary government fees that the provider passes through to the consumer.³⁶
- Eliminate “machine-readability” requirements.
- Remove 47 CFR § 8.2(a)(5), requiring providers to archive broadband labels for two years.

To be clear, because providers made substantial investments to design and implement their labels within the specifications of the 2022 rules, the Commission should not adopt rule amendments that have the effect of requiring providers to make changes to the substance of their labels or the methods by which they are displayed. In particular, it should not adopt any of the “enhancements” set forth in the FNPRM that accompanied the 2022 rules.

³⁶ See *ACA Connects—America’s Communications Association, CTIA, NCTA—The Internet & Television Association, NTCA—The Rural Broadband Association, and USTelecom—the Broadband Association*, Joint Petition for Clarification or, in the Alternative, Reconsideration, CG Docket No. 22-2 (filed Jan. 17, 2023). ACA Connects previously asked for this change, which was considered in the Commission’s Order on Reconsideration. See *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2 Order on Reconsideration, FCC 23-68 at Sec. III.A (2023). The costs of identifying government fees on labels are substantial, because it requires separate labels for every jurisdiction that imposes such fees.

D. Removing the EAS-Related Set-Top Box Replacement Obligation (PS Docket No 15-94; 47 CFR § 11.51)

In 2022, the FCC adopted a Report and Order³⁷ requiring – amongst other things – Emergency Alert System (“EAS”) Participants, including cable operators, to enable the display of revised language for Presidential emergency alerts.³⁸ For some operators, because software on existing set-top boxes cannot be upgraded to display the revised text, they could only comply by either replacing the box or overhauling the system used to deliver video.³⁹ In other words, for cable operators in this situation, the rule effectively forces them to “rip and replace” existing equipment without any reimbursement. The desire to avoid this costly mandate would likely encourage affected operators, especially smaller ones, to consider exiting the MVPD marketplace entirely, leaving their customers and communities with one less source for emergency alerts. While these harms are great, any public benefit of preserving the requirement would be minimal; the evidence is scant, at best, that the required change to the viewable text – replacement of the phrase “Emergency Action Notification” with “National Emergency Message” – would materially improve the ability of public to

³⁷ *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket No. 15-94, Report and Order, FCC 22-75 (2022) (“2022 EAS Order”).

³⁸ 47 CFR § 11.51.

³⁹ The Commission set a six-year compliance timeline – with a deadline of December 12, 2028 – to replace set-top boxes that cannot be programmed to deliver the revised Presidential alert text via a software upgrade. See 2022 EAS Order, paras. 49-50.

understand and respond to Presidential-level alerts.⁴⁰ The Commission should therefore suspend the requirement to display the modified Presidential alert text to the extent that compliance would require replacement of a consumer set-top box.

E. Adjusting Outage Reporting Requirements (PS Docket Nos. 21-346 and 15-80; ET Docket No. 04-35; 47 CFR § 4.18)

For ACA Connects Members, network resiliency and disaster preparedness are important priorities. As smaller providers that live in the communities they serve, our Members have a vested interest to ensure their neighbors, friends, and family are well protected during emergencies. Our Members, and all broadband providers, also understand the competitive incentives to build and maintain resilient networks and to minimize the extent and duration of service outages. Communications providers of all sizes and technologies take extensive measures to achieve these objectives, which may vary based on technology, geography, size, and other factors.⁴¹

That said, the smaller providers must contend with resource constraints and other challenges that become only more pressing when a disaster strikes. Accordingly, while they appreciate the need for information sharing and situational awareness during emergencies, they are concerned that recent changes to the Commission's outage

⁴⁰ Indeed, the only evidence cited for this proposition is a bare assertion from another Federal agency – the Federal Emergency Management Authority – that alert recipients would fail to understand the significance of a Presidential alert if it were presented as an “Emergency Action Notification.” See *id.* at para. 34.

⁴¹ See, e.g., Comments of the American Cable Association, PS Docket Nos. 21-346 & 15-80; ET Docket No. 04-35, at 11 (filed Dec. 16, 2021).

reporting rules, as explained below, will divert scarce resources from disaster response and recovery and should therefore be reconsidered.

DIRS. Though the Commission had operated the Disaster Information Reporting System (“DIRS”) for more than 15 years as a voluntary program, it decided last year to make DIRS reporting mandatory.⁴² We urge the Commission to reconsider this mandate.

While ACA Connects supports the mission of DIRS and encourages Members in affected counties to report whenever possible, we submit that the conversion of DIRS from a voluntary to a mandatory program will not produce benefits that outweigh the harmful impact on smaller providers. Because larger operators have historically participated in DIRS voluntarily, the Commission already obtains sufficient information from DIRS to maintain situational awareness during disasters. The new reporting mandate, in turn, is effectively a mandate on smaller providers. Major disasters strain these providers’ resources and personnel and layering on a reporting mandate could divert resources from repairing networks and restoring service as quickly as possible, to the detriment of their customers and communities. ACA Connects thus recommends

⁴² *Resilient Networks; Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications; New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, PS Docket Nos. 21-346 and 15-80; ET Docket No. 04-35, Second Report and Order and Second Further Notice of Proposed Rulemaking, FCC 24-5 (2024) (*Resilient Networks Second Report and Order*).

that the Commission eliminate mandatory DIRS obligations and instead encourage broader participation from smaller providers in DIRS on a voluntary basis.⁴³

911 Outages. The Commission has also adopted recent changes to its rules that govern reporting of outages that impair access to 9-1-1.⁴⁴ As ACA Connects – along with other associations – explained in comments addressing the paperwork burdens of these rules, they impose tight notification deadlines and other prescriptive mandates that are difficult to operationalize, especially for smaller providers.⁴⁵ Concerns have also been raised about the potential for over-notification of public safety answering points. We therefore urge the Commission to give these rules a fresh look.

F. Repealing Data Breach Rules (WC Docket No. 22-21; 47 CFR §§ 64.2011(a)-(e), 64.5111(a)-(e))

In 2023, the Commission adopted new data breach rules for telecommunications carriers and interconnected VoIP providers that not only exceed its statutory authority under 47 U.S. Code § 222 but also defy the will of Congress as expressed in a 2017

⁴³ At minimum, it should waive the obligation to report in DIRS when a provider has not experienced an outage of sufficient magnitude to require reporting in the Network Outage Reporting System.

⁴⁴ *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; Improving 911 Reliability; New Part 4 of Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, PS Docket No. 13-75, ET Docket No. 04-35 Second Report and Order, FCC No. 22-88 (rel. Nov. 18, 2022) (“911 Outage Order”).

⁴⁵ Joint Comments of ACA Connects, CCA, CTIA, NCTA, and USTelecom, PS Docket Nos. 13-75, 04-35, 23-5; WC Docket No. 18-336 (filed Jan. 8, 2024). In adopting these rules, the Commission vastly expanded its criteria for outages “potentially affect[ing] a 9-1-1 special facility”, sweeping in general network outages that do not directly affect dedicated 9-1-1 infrastructure or connectivity to public safety answering points. *Compare* Reply Comments of ACA Connects, PS Docket No. 15-80 et al. at 2-4 (filed Aug. 30, 2021) *with* 911 Outage Order at para. 11.

Congressional Review Act “resolution of disapproval.”⁴⁶ In litigation challenging these new rules, ACA Connects joined other industry associations in submitting an *amicus curiae* brief that underscores the burdensome impact of these new rules on smaller communications providers.⁴⁷ Regardless of the outcome in the litigation, the Commission should delete these unlawful rules.

IV. REMOVE UNBALANCED REGULATIONS ON CABLE PROVIDERS

Commission video regulations targeting cable providers are becoming increasingly obsolete in a marketplace where cable providers are rapidly losing ground to vMVPD alternatives: “Virtual MVPDs now control around 30% of U.S. pay TV subscribers, Moffett estimates, and will own a market share of around 50% by 2028[.]”⁴⁸ YouTube TV is predicted to be the largest pay-TV provider by 2026⁴⁹ yet traditional MVPDs remain subject to far more extensive Commission regulation. ACA Connects thus asks the Commission to reduce the regulatory burdens that apply to MVPDs – particularly smaller MVPDs like ACA Connects Members – which would, among other benefits, create a more even playing field between these operators and their vMVPD

⁴⁶ See *Data Breach Reporting Requirements*, WC Docket No. 22-21, Report and Order, FCC 23-111 (2023); see also Dissenting Statement of Commissioner Brendan Carr, *Data Breach Reporting Requirements*, WC Docket No. 22-21, Report and Order, FCC 23-111 (2023).

⁴⁷ See, e.g., “Trade Groups Big and Small Ask Sixth Circuit to Toss FCC’s Data Breach Rules,” Broadband Breakfast (June 3, 2024), available at <https://bit.ly/4lmXJg5>.

⁴⁸ “Amid Another Worst Quarter Ever for U.S. Pay TV, Even YouTube TV Lost Subscribers in Q1, Analyst Says,” NextTV (June 18, 2024), available at <https://bit.ly/3FUjHaj>.

⁴⁹ “YouTube TV Estimated to Have More Subscribers Than Comcast and Spectrum by 2026,” 9to5Google (Apr. 2, 2024), available at <https://bit.ly/4i9msBQ>.

competitors. The suggestions listed below will ease reporting and regulatory obligations while maintaining integrity and transparency in the video marketplace.

A. Closed Captioning Certifications (CG Docket No. 05-231; 47 CFR § 79.1(j)(1)(i))

Our first request is to permanently delete a requirement that has languished in the “recycle bin” for many years. In 2016, the Commission adopted amendments to its television closed captioning rules that relieve cable operators and other video programming distributors (“VPDs”) from making “best efforts” to obtain compliance certifications from video programmers.⁵⁰ More precisely, VPDs *will* obtain such relief once the Commission establishes a web form for programmers to file these certifications directly and announces a compliance date in the Federal Register for programmers to assume this responsibility.⁵¹ Nine years later, these steps remain uncompleted – leaving our Members and other VPDs in limbo. The Commission should finish the job and remove this lame-duck requirement from its rulebook.

B. Reporting Obligations for Advertisement Duration Limits under Children’s Television Act (MB Docket Nos. 18-202, 17-105; 47 CFR § 76.1703)

In 2019, the Commission relaxed its Children’s Programming (also known as “KidVid”) recordkeeping obligations for cable operators,⁵² and the time has come to

⁵⁰ See *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, CG Docket No. 05-231, Second Report and Order, 31 FCC Rcd 1469, 1486-93, paras. 32-43 (2016).

⁵¹ See 47 CFR § 79.1(j)(1)(i), (m)(5).

⁵² *Children’s Television Programming Rules*, MB Docket Nos. 18-202, 17-105, Report and Order and Further Notice of Proposed Rulemaking, FCC 19-67 (2019).

delete these requirements altogether. The human capital required to comply with these rules is significant, while the public benefit is limited – particularly at a time when children increasingly view video programming online rather than on traditional cable television. The statute that sets advertising duration limits under the Children’s Television Act,⁵³ – 47 U.S.C. § 303a – does not require cable operators to collect or maintain in their public file certifications from programmers demonstrating compliance with these limits. Rather, the collection and maintenance of such certifications in the public file is a Commission-created regulatory requirement.⁵⁴ The Commission should build on its 2019 reforms to reduce the regulatory burdens of the Children’s Television Act⁵⁵ by eliminating the requirement that cable operators to collect and maintain in their public file certifications from programmers demonstrating compliance with the Children’s Television Act.

C. Annual Notice Rules (MM Docket No. 92-263; 47 CFR § 76.1602)

Under Commission rules,⁵⁶ cable operators must provide extensive written information to subscribers at the time of installation, at least annually to all subscribers

⁵³ Children’s Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, codified at 47 U.S.C. §§ 303a, 303b, 394.

⁵⁴ See 47 CFR § 76.1703; *Policies and Rules Concerning Children’s Television Programming*, MM Docket No. 90-570, Report and Order, 6 FCC Rcd 2111 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991).

⁵⁵ *Children’s Television Programming Rules*, MB Docket Nos. 18-202, 17-105, Report and Order and Further Notice of Proposed Rulemaking, FCC 19-67 (2019).

⁵⁶ See 47 CFR § 76.1602. This rule is often known as the “Annual Notice” rule. In 1993, the Commission adopted the Annual Notice rule and other cable customer service obligations pursuant to 47 U.S.C. § 552. Notably, this provision required the Commission only to adopt baseline requirements that franchising authorities could

thereafter, and at any time upon request.⁵⁷ Our Members find that compliance with the Annual Notice rule is time consuming and burdensome, yet the notices are of limited benefit to subscribers because the information they contain is readily available on provider websites and from other sources. As such, there is no longer a compelling need or justification for federal obligations on cable operators governing Annual Notices or customer service obligations. Additionally, the removal of the Annual Notice requirements would promote parity within the media industry, as vMPVDs do not have to comply with these burdensome regulations.

D. Updates to Broadcast Carriage and Other Cable Rules

As explained in comments filed separately by the American Television Alliance (“ATVA”), of which ACA Connects is a member, several rules related to carriage of broadcast programming create an unfavorable regulatory environment for MVPDs. We support all suggestions by ATVA to reduce regulatory barriers in the media landscape and further modernize the Commission’s media practices. The Commission should also consider the relaxation or removal of other cable rules in light of marketplace changes,

enforce at their discretion, not to adopt “self-executing” requirements. That is, the Commission could have established customer service best practices and left their enforcement to the discretion of franchising authorities.

⁵⁷ Information to provide includes: (1) Products and services offered; (2) Prices and options for programming services and conditions of subscription to programming and other services; (3) Installation and service maintenance policies; (4) Instructions on how to use the cable service; (5) Channel positions of programming carried; (6) Billing and complaint procedures, including address and telephone number of the local franchise authority’s cable office; (7) Fees charged for rental of set-top boxes and CableCARDS; (8) Where equipment is bundled with one or more services, fees reasonable allocable to the rental of (i) CableCARDS and (ii) set-top boxes. See 47 CFR § 76.1602(b).

including network non-duplication and syndicated exclusivity rules⁵⁸ and notice requirements⁵⁹ and set-top box requirements.⁶⁰

V. CONCLUSION

ACA Connects appreciates the opportunity to participate in this proceeding and encourages the Commission to take its suggestions into consideration.

Respectfully submitted,

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⁵⁸ 47 CFR §§ 76.92-76.130.

⁵⁹ 47 CFR § 76.1609.

⁶⁰ 47 CFR §§ 76.1200-76.1206; *see also* § 76.1208 (providing for these rules to sunset when certain conditions are met).